

(3) as within level IV, if the Corporation is otherwise within level III.

**(c) Quarterly determination**

The Director shall determine the classification of the Corporation for purposes of this part on not less than a quarterly basis (and as appropriate under subsection (b)). The first such determination shall be made for the quarter ending March 31, 1992.

**(d) Notice**

Upon determining under subsection (b) or (c) that the Corporation is within level II or III, the Director shall provide written notice to the Congress and to the Corporation—

- (1) that the Corporation is within such level;
- (2) that the Corporation is subject to the provisions of section 2279bb-5 or 2279bb-6 of this title, as applicable; and
- (3) stating the reasons for the classification of the Corporation within such level.

**(e) Implementation**

Notwithstanding paragraphs (1) and (2) of subsection (a), during the period beginning on December 13, 1991, and ending on the effective date of the risk based capital regulation issued by the Director under section 2279bb-1 of this title, the Corporation shall be classified as within level I if the Corporation equals or exceeds the minimum capital level established under section 2279bb-2 of this title.

(Pub. L. 92-181, title VIII, §8.35, as added Pub. L. 102-237, title V, §503(b)(2), Dec. 13, 1991, 105 Stat. 1874; amended Pub. L. 104-105, title I, §116, Feb. 10, 1996, 110 Stat. 168.)

AMENDMENTS

1996—Subsec. (e). Pub. L. 104-105 substituted “during the period beginning on December 13, 1991, and ending on the effective date of the risk based capital regulation issued by the Director under section 2279bb-1 of this title,” for “during the 30-month period beginning on December 13, 1991.”

**§ 2279bb-5. Mandatory actions applicable to level II**

**(a) Capital restoration plan**

If the Corporation is classified as within level II, the Corporation shall, within the time period determined by the Director, submit to the Director a capital restoration plan and, after approval, carry out the plan.

**(b) Restriction on dividends**

If the Corporation is classified as within level II, the Corporation may not make any payment of dividends that would result in the Corporation being reclassified as within level III or IV.

**(c) Reclassification from level II to level III**

The Director shall immediately reclassify the Corporation as within level III (and the Corporation shall be subject to the provisions of section 2279bb-6 of this title), if—

- (1) the Corporation is within level II; and
- (2)(A) the Corporation does not submit a capital restoration plan that is approved by the Director; or
- (B) the Director determines that the Corporation has failed to make, in good faith, rea-

sonable efforts necessary to comply with such a capital restoration plan and fulfill the schedule for the plan approved by the Director.

**(d) Effective date**

This section shall take effect upon the expiration of the 30-month period beginning on December 13, 1991.

(Pub. L. 92-181, title VIII, §8.36, as added Pub. L. 102-237, title V, §503(b)(2), Dec. 13, 1991, 105 Stat. 1876.)

**§ 2279bb-6. Supervisory actions applicable to level III**

**(a) Mandatory supervisory actions**

**(1) Capital restoration plan**

If the Corporation is classified as within level III, the Corporation shall, within the time period determined by the Director, submit to the Director a capital restoration plan and, after approval, carry out the plan.

**(2) Restrictions on dividends**

**(A) Prior approval**

If the Corporation is classified as within level III, the Corporation—

- (i) may not make any payment of dividends that would result in the Corporation being reclassified as within level IV; and
- (ii) may make any other payment of dividends only if the Director approves the payment before the payment.

**(B) Standard for approval**

If the Corporation is classified as within level III, the Director may approve a payment of dividends by the Corporation only if the Director determines that the payment (i) will enhance the ability of the Corporation to meet the risk-based capital level and the minimum capital level promptly, (ii) will contribute to the long-term safety and soundness of the Corporation, or (iii) is otherwise in the public interest.

**(3) Reclassification from level III to level IV**

The Director shall immediately reclassify the Corporation as within level IV if—

- (A) the Corporation is classified as within level III; and
- (B)(i) the Corporation does not submit a capital restoration plan that is approved by the Director; or
- (ii) the Director determines that the Corporation has failed to make, in good faith, reasonable efforts necessary to comply with such a capital restoration plan and fulfill the schedule for the plan approved by the Director.

**(b) Discretionary supervisory actions**

In addition to any other actions taken by the Director (including actions under subsection (a)), the Director may, at any time, take any of the following actions if the Corporation is classified as within level III:

**(1) Limitation on increase in obligations**

Limit any increase in, or order the reduction of, any obligations of the Corporation, including off-balance sheet obligations.